IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.336 OF 2006
IN
NOTICE OF MOTION NO.1673 OF 2006
IN
S.C.SUIT NO.1802 OF 2006
WITH
CIVIL APPLICATION NO.421 OF 2006

Mrs Shirin Jabir Lampwala & Ors. ...Appellants

Vs.

Shirin Munis Varawala ...Respondent

Shri Suresh Gole for the Appellants.

Shri Bharat Chaudhary i/by Jhanghania Narula Associates for the Respondent.

CORAM : A.M. KHANWILKAR, J.

DATE : JUNE 20, 2006.

P.C.:

1. Heard. Admit. Respondent waives service. As short question is raised, taken up for hearing forthwith by consent.

2. This Appeal is directed against the order passed by the Trial Court refusing to grant ad-interim relief dated 24th April, 2006 in Notice of Motion No.1673 of 2006 in S.C. Suit No.1802 of 2006. The Appellants- original Plaintiffs assert that they are in possession of the suit property. The Appellant

No.1 is the daughter-in-law of the original defendant Zubeda Lampwala. The Appellant Nos.2 and 3 are the grand-daughters of said Zubeda Lampwala. The share certiciate issued by the Society clearly indicates that the suit premises have been allocated jointly to Zubeda Lampwala and Shirin Varawala. In my opinion, case for ad-interim relief was made out by the Appellants. Besides, during pendency of this Appeal this Court passed order of status-quo on 16th May, 2006 which has operated in favour of the Appellant so far. It is not disputed that Notice of Motion is placed for hearing on 23rd June, 2006. In the circumstances, the appropriate course is to continue the ad-interim order of status-quo with clarification that it will be open to the Respondent to proceed against the Appellants for evicting them from the suit premises in accordance with law. The Trial Court shall finally dispose of Notice of Motion expeditiously preferably by 08th August, 2006 or so soon thereafter as may be convenient. This order may not be understood as expression of opinion eitherway. Counsel for the Respondent relied upon decision reported in AIR 1995 Bom. Page 201 and contended that the Appellants cannot claim any protection whatsoever.

Even this aspect will have to be considered by the Trial Court on its own merits while examining Notice of Motion. All questions are kept open. Appeal is allowed on the above terms. Civil Application is also disposed of.

JUDGE